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DEPARTMENT OF JUSTICE

Executive Office for Immigration Review

8 CFR Part 1292

Docket No. EOIR 138

RIN 1125-AA39

Registry for Attorneys and Representatives

AGENCY: Executive Office for Immigration Review, Department of Justice.

ACTION: Notice of implementation of registration requirement.

SUMMARY: The Executive Office for Immigration Review (EOIR) has established a mandatory electronic registry for attorneys and accredited representatives who practice before EOIR's immigration courts and Board of Immigration Appeals (BIA or Board). This notice provides additional instructions regarding the registration process.

DATES: Attorneys and accredited representatives will be able to register beginning on June 10, 2013. After December 10, 2013, attorneys and accredited representatives must be registered in order to practice before EOIR's immigration courts and the Board and may be subject to administrative suspension for failure to register.

FOR FURTHER INFORMATION CONTACT: Jeff Rosenblum, General Counsel, Executive Office for Immigration Review, 5107 Leesburg Pike, Suite 2600, Falls Church, Virginia 22041, telephone (703) 305-0470 (not a toll-free call).

SUPPLEMENTARY INFORMATION:

I. Background

On April 1, 2013, the Department published in the Federal Register a final rule that

establishes a mandatory electronic registry (eRegistry) for attorneys¹ and accredited representatives² who practice before EOIR's immigration courts and the Board.³ *See* 78 FR 19400 (April 1, 2013). The final rule amends 8 CFR part 1292 by establishing a new paragraph in § 1292.1(f) that provides for attorneys and accredited representatives to register electronically with EOIR in order to practice before its immigration courts and the Board.

eRegistry is part of a long-term agency plan to create an electronic case access and filing system for the immigration courts and the Board. The eRegistry will individually and uniquely identify each registered attorney or accredited representative and associate the information provided during registration with that attorney or accredited representative. This will increase efficiency by reducing system errors in scheduling matters and providing improved notice to attorneys and accredited representatives. Further, registration will ultimately enable an electronic filing system that will reduce the time and expense presently incurred with paper filings.

II. Who Must Register

All attorneys and accredited representatives who practice before EOIR's immigration courts or the Board must register with EOIR's eRegistry. *See* 8 CFR 1292.1(a)(1), (a)(4), (f). At this time, the electronic registration requirements apply only to attorneys and to accredited representatives who are authorized to appear before EOIR. (This includes attorneys and accredited representatives who appear before both EOIR and DHS, but the registration

¹ For purposes of this notice, the term "attorney" refers to any individual meeting the definition of "attorney" in 8 CFR 1001.1(f), except any attorney who represents the Federal Government before EOIR.

² An accredited representative is a non-attorney who is designated by a recognized organization and accredited by the Board pursuant to 8 CFR 1292.2(d) to represent individuals before the Department of Homeland Security (DHS), or before both DHS and EOIR. All accredited representatives must be affiliated with an organization established in the United States that has received recognition by the Board pursuant to 8 CFR 1292.2(a). For purposes of this notice, the term "accredited representative" refers only to an accredited representative who is accredited to appear before both EOIR and DHS. *See* 8 CFR 1292.2(d).

³ The electronic registration requirement does not apply to representatives who appear before EOIR's Office of the Chief Administrative Hearing Officer.

requirements only pertain to their practice before EOIR.) Accordingly, accredited representatives authorized to appear only before DHS, law students, law graduates, reputable individuals, or accredited foreign government officials will not be able to register at this time. Similarly, law firms and recognized organizations will not be able to register.

III. How to Register

Registration is a two-step process, which consists of an online registration and an identity validation. Both steps must be completed in order for an attorney or accredited representative to be registered before EOIR.

Attorneys and accredited representatives will begin the online registration process by selecting their relevant account type, creating an individual UserID and password, and providing answers to password-related security questions.⁴ Thereafter, attorneys and accredited representatives will follow on-screen instructions to enter and submit the requested information. After registering, a registry applicant will need to appear at an immigration court location or the Board to present photo identification, so that EOIR can verify the applicant's identity. Once that step is completed, EOIR will notify the registrant that his or her account has been activated.

Attorneys will be required to provide the following information when registering: full name; date of birth; business address(es); business telephone number(s); e-mail address(es);⁵ and bar admission information for all the jurisdictions in which they are licensed to practice, including those in which they are inactive. If they are licensed in a jurisdiction that does not provide bar numbers, they will not be required to submit a bar number for that jurisdiction.

Attorneys may also enter the name of their business or law firm.

⁴ A registered attorney or accredited representative will be able to provide the answers to these questions in order to reset a forgotten password.

⁵ Registrants will be able to provide more than one e-mail address, when appropriate, i.e., an e-mail address for eRegistry account-related e-mails and an e-mail address for case specific correspondence.

Accredited representatives will be required to provide the following information when registering: full name; date of birth; business address(es); business telephone number(s); e-mail address(es); and name(s) of all the recognized organization(s) that have obtained accreditation for the representative to appear before EOIR.

EOIR will process the submitted information and then communicate with the registry applicant via e-mail. First, EOIR will send an e-mail to the registry applicant with instructions for the identity validation process.⁶ After the registry applicant successfully completes the identity validation process, EOIR will send an e-mail notifying the registrant that it has activated his or her account and will assign an EOIR ID number. Each registrant will be required to include the EOIR ID number when filing a Form EOIR-27, Notice of Entry of Appearance as Attorney or Representative Before the Board of Immigration Appeals, or Form EOIR-28, Notice of Entry of Appearance as Attorney or Representative Before the Immigration Court.

IV. Failure to Register

By December 10, 2013, all attorneys and accredited representatives authorized to appear before EOIR must be registered as a condition to practice before the immigration courts and the Board. If an attorney or accredited representative who has cases pending before EOIR fails to register by December 10, 2013, EOIR may administratively suspend that individual from practicing before EOIR. *See* 8 CFR 1292.1(f). An attorney or accredited representative subject to administrative suspension can resume practicing before EOIR upon completing the registration process. While administrative suspension, on its own, is not disciplinary in nature,

⁶ As indicated in the final rule, registry applicants will be able to appear at an immigration court or the Board's Clerk's Office to present specified photo identification, so that EOIR can verify the registrant's identity. In addition, EOIR anticipates that applicants may be able to present their identification at other locations where EOIR hearings are conducted, including those where hearings are conducted by video conference. Detailed information about the required identity validation process for eRegistry, including permissible forms of identification and locations where EOIR will validate identities, will be available on EOIR's website. The list of permissible forms of identification will also be available during the online registration process.

an unregistered attorney or accredited representative's multiple attempts to appear before EOIR may result in disciplinary sanctions. Any individual who meets the definition of attorney in 8 CFR 1001.1(f) or the definition of representative in 8 CFR 1001.1(j) is subject to disciplinary sanctions for misconduct, even if the individual is not registered. *See* 8 CFR 1003.101(b).

V. Voluntary Electronic Submission of Form EOIR-27 and Form EOIR-28

Upon implementation of eRegistry, registered attorneys and accredited representatives will be able to use their stored eRegistry information to pre-populate and, on a voluntary basis, electronically file entry of appearance forms for certain designated proceedings before the immigration courts and the Board.⁷ Registered attorneys and accredited representatives who electronically file a Form EOIR-27 or Form EOIR-28 will still be required to serve DHS with a printed copy of the completed Form EOIR-27 or Form EOIR-28.

EOIR will continue to accept paper submissions of the Form EOIR-27 and Form EOIR-28. At this time, immigration practitioners who are not required to register will not be able to file these forms electronically.

VI. Official Correspondence and Representative Change of Address

EOIR will send all official correspondence to the representative's address included on the most recent Form EOIR-27 or Form EOIR-28 for each case. Representatives are under an obligation to notify the immigration court and the Board of any change in their current address or any change in affiliations with recognized organizations, including branch offices.

Registrants may change their addresses electronically by completing a two-step process. First, registrants must log in to their eRegistry account and add the new address to their account

⁷ EOIR will not permit electronic filing of the Form EOIR-27 and Form EOIR-28 in certain limited situations, including, but not limited to, bond redetermination requests made before the filing of a Notice to Appear with the immigration court, appeals of decisions involving fines and penalties, and appeals of decisions of adjudicating officials in practitioner disciplinary proceedings. A complete list of situations in which EOIR will not permit electronic filing of the Form EOIR-27 and Form EOIR-28 will be available on EOIR's website.

profile. Second, registrants must electronically file a Form EOIR-27 or Form EOIR-28 for each of their cases to which the newly-added address should be assigned. In such cases, registrants should check the “new address” box on the Form EOIR-27 or Form EOIR-28. As with all submissions of the Form EOIR-27 or the Form EOIR-28, registrants are required to serve DHS with a printed copy of the completed Form EOIR-27 or Form EOIR-28.

Registrants should note that adding a new address to their eRegistry profiles will not serve to update their addresses with the immigration court or the Board unless and until the Form EOIR-27 or Form EOIR-28 has been filed in each of their cases with their updated address.

In matters in which EOIR does not yet accept electronic filings of the Form EOIR-27 or Form EOIR-28, registrants will need to file paper versions of those forms with the immigration court or the Board to complete the address change.

VII. Responsibilities of Users

Registered attorneys and accredited representatives will be responsible for all activity conducted under the attorney’s or accredited representative’s account. Once eRegistry is operational, registered attorneys and accredited representatives should immediately contact EOIR if they think that their account has been compromised.

VIII. Effect of Disciplinary Orders on Registry

Individuals with law licenses are not permitted to register as attorneys if they are under any order suspending, enjoining, restraining, disbarring, or otherwise restricting them in the practice of law, or are otherwise not a member in good standing of the bar. Such individuals do not meet the definition of “attorney” under 8 CFR 1001.1(f).

EOIR will deactivate the EOIR ID of an attorney or accredited representative who has been disbarred or suspended pursuant to 8 CFR 1003.101 *et seq.* unless and until the Board

reinstates or otherwise permits the attorney or accredited representative to practice.

IX. Additional Information

Additional information regarding eRegistry will be available on EOIR's website.

May 7, 2013

Date:

Juan P. Osuna
Director

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